



## Michigan Supreme Court

State Court Administrative Office  
Michigan Hall of Justice  
P.O. Box 30052  
Lansing, Michigan 48909  
Phone (517) 373-0128

Carl L. Gromek, Chief of Staff  
State Court Administrator

**DATE:** November 22, 2005

**TO:** All Circuit, District, and Probate Court Judges  
cc: Circuit Court Administrators, District Court Administrator/Clerks,  
Probate Court Administrators/Registers, and System Providers

**FROM:** Carl L. Gromek

**RE:** New Form for Reporting Delay in Matters Submitted to Judge Pursuant to  
MCR 8.107

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MCR 8.107 was recently amended by the Michigan Supreme Court to expand the reporting requirements for matters submitted to a judge that remain undecided. The amended rule incorporates the definition of what constitutes a prompt determination of matters submitted to a judge from Michigan Supreme Court Administrative Order 2003-7 (AO 2003-7). In addition, it expands the reporting of matters that remain undecided, both by increasing the number of times per year a judge must submit this report and by reducing the time a judge has to decide a matter before it must be listed on this report.

Currently, judges are required to submit this report three times a year and list all matters that remain undecided four months after submission to a judge. The revised rule requires submission four times per year for two classes of matters: pending matters that remain undecided more than 56 days after submission to the judge, and matters that were decided during the reporting period, but were decided more than 56 days after submission to the judge.

The rule was also amended to add language from AO 2003-7 which encourages decisions to be made from the bench, but no later than 35 days after submission. Thus, while a judge should attempt to render all decisions within 35 days of submission, only matters that are decided 56 days or more after submission to a judge are required to be listed on this report. The definition of when a matter is considered submitted to a judge (the time the last argument or presentation in the matter was made, or the expiration of the time allowed for filing the last brief or production of transcripts) remains unchanged.

A revision to the current Statement of Matters Undecided (form SCAO 27) is attached to this memo.

### **Reporting Requirements**

For each reporting period, each trial court judge must report every matter that remains undecided that has aged more than 56 days since submission to that judge and every matter for which the decision was made more than 56 days after submission to that judge. A report must include cases from another court to which the judge has been assigned, and all cases assigned to a judge that are under consideration by a referee. A report must be prepared even when there are no cases to report.

The report must be prepared quarterly. Upon completion, the report must be certified by the judge who prepared it and filed with the chief judge of the court to which the judge was elected. The chief judge must submit the report of each judge from his or her court to the State Court Administrative Office no later than the 7th day of the month following the end of the reporting period. The first report is due no later than April 7, 2006, for the period January 1, 2006 through March 31, 2006.

### **Expectations for Electronic Submission**

For 2006, reports must be submitted on paper to the Regional Administrator. Starting in 2007, the data collected on this report (whether manually compiled or generated by a case management system) must be reported via a web application called the Delay in Matters System (DMS). Courts will not be able to enter data for this report before the first day of any reporting quarter. An upload feature will be made available through DMS only if courts request that capability. To request an upload feature, please contact Amy L. Byrd at (517) 373-4864 or [byrda@courts.mi.gov](mailto:byrda@courts.mi.gov). **Reports submitted on paper after January 1, 2007 will not be accepted.**

The DMS will be accessible to users at <http://courts.michigan.gov/mcap>. Once the web application has been developed, courts will receive instructions for identifying users and assigning passwords to access the system.

### **Programming**

There is no requirement that your system provider program this report to be generated by your case management system.

### **Questions**

If you have any questions about these reports, please contact your Regional Administrator. Questions about your case management system should be directed to your system provider.

### **Attachments**

cc: Trial Court Services  
Regional Office

**DELAY IN MATTERS SUBMITTED TO JUDGE**

Complete this report quarterly. This report shall be filed with the chief judge on the first business day of January, April, July, and October. The chief judge shall submit this report to the State Court Administrator, c/o the Regional Administrator, no later than 7 days after it has been filed with the chief judge.

Quarter	Year	Name of judge	Bar no.
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**General Reporting Instructions:**

- Every judge shall complete this report whether there is any case to report or not. Include cases from another court to which the judge has been assigned and all cases under consideration by referees.
- A "matter" is any issue submitted to a judge requiring a decision such as a pretrial motion, postjudgment motion, plea under advisement pursuant to MCR 6.302(F), etc.
- According to MCR 8.107(A), every matter submitted to a judge or judicial officer should be promptly determined. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission. For the purpose of MCR 8.107(A), the time of submission is the time the last argument or presentation in the matter was made, or the expiration of the time allowed for filing the last brief or production of transcripts.

**A. Pending Matters**

Report below each matter that remains undecided at the end of the reporting period that has aged more than 56 days since submission. Include matters assigned from another court. Use additional pages if necessary.

Case Number	Case Type Code	Case Name	Date Matter Submitted	Type of Matter	Reason(s) for Delay

☐ There is no matter undecided at the end of this reporting period that has aged more than 56 days since submission.

**B. Decided Matters**

Report below each matter that was decided in this reporting period for which the decision was made more than 56 days after submission. Include matters assigned from another court. Use additional pages if necessary.

Case Number	Case Type Code	Case Name	Date Matter Submitted	Date Matter Decided	Type of Matter	Reason(s) for Delay

☐ There was no matter decided in this reporting period for which the decision was made more than 56 days after submission.

I certify that on this date a copy of this report was filed with the chief judge of this court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge signature

Reviewed by Chief Judge: \_\_\_\_\_  
Date

\_\_\_\_\_  
Chief judge signature

# Order

Michigan Supreme Court  
Lansing, Michigan

October 25, 2005

Clifford W. Taylor,  
Chief Justice

ADM File No. 2004-42

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

Amendment of Rules 8.107  
and 8.110 of the  
Michigan Court Rules

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On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 8.107 and 8.110 of the Michigan Court Rules are adopted, effective January 1, 2006. The Court has declined to adopt the proposal to amend Rule 8.103 published June 7, 2005.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 8.107 Statement by Trial Judge as to Matters Undecided

- (A) Time. Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and for production of transcripts. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission. For the purpose of this rule, the time of submission is the time the last argument or presentation in the matter was made, or the expiration of the time allowed for filing the last brief or production of transcripts, as the case may be.
- (B) Report as to Matters Undecided. Every trial judge shall, on the first business day of January, May, and September, April, July, and October of each year, every trial judge shall file a certified statement with the chief judge state court administrator a certified statement in the form prescribed by the state court administrator, containing full information on any matter submitted to the judge for decision more than 4 months earlier which remains undecided. The judge shall also set forth in the statement the reason a matter remains undecided. For the purpose of this rule the time of submission is the time the last argument or presentation in the matter was made or the expiration of the time allowed for filing the last brief, as the case may be. If the judge has no cases to report, the word "none" on a signed report is required. The statement shall provide information on all matters pending during

the reporting period that were not decided within 56 days from submission. The judge shall state the reason that a decision was not made within 56 days. A report is required regardless of whether there is any case to report. The chief judge shall sign and file, or electronically submit, the statement with the state court administrator.

#### Rule 8.110 Chief Judge Rule

(A)-(B) [Unchanged.]

(C) Duties and Powers of Chief Judge.

(1) [Unchanged.]

(2) As the presiding officer of the court, a chief judge shall:

- (a) call and preside over meetings of the court;
- (b) appoint committees of the court;
- (c) initiate policies concerning the court's internal operations and its position on external matters affecting the court;
- (d) meet regularly with all chief judges whose courts are wholly or partially within the same county;
- (e) represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, the general public, and the news media, and in ceremonial functions;~~and~~
- (f) counsel and assist other judges in the performance of their responsibilities;~~;~~ and
- (g) cooperate with all investigations conducted by the Judicial Tenure Commission.

(3)-(4)[Unchanged.]

(5) The chief judge of the court in which criminal proceedings are pending shall have filed with the state court administrator a monthly report setting forth the reasons for delay in the proceedings:

- (a) ~~in felony cases in which there has been a delay of 28 days between the hearing on the preliminary examination or the date of the waiver of the preliminary examination and the arraignment on the information or indictment; more than 154 days between the order binding the defendant over to circuit court and adjudication;~~
- (b) ~~in felony cases in which there has been a delay of 6 months between the date of the arraignment on the information or indictment and the beginning of trial;~~
- (b) (e) in misdemeanor cases and cases involving local ordinance violations that have criminal penalties in which there has been a delay of 6 months— more than 91 days between the date of the arraignment defendant's first appearance on the warrant and complaint or citation and the beginning of the trial adjudication;
- (c) In computing the 91-day and 154-day periods, the court shall exclude periods of delay
  - (1) between the time a preadjudication warrant is issued and a defendant is arraigned;
  - (2) between the time a defendant is referred for evaluation to determine whether he or she is competent to stand trial and the receipt of the report; or
  - (3) during the time a defendant is deemed incompetent to stand trial.
- (d) ~~in felony cases in which a defendant is incarcerated longer than 6 months and in misdemeanor cases in which a defendant is incarcerated longer than 28 days.~~

(6)-(7)[Unchanged.]

(D) [Unchanged.]

Staff Comment: New MCR 8.107(A) requires a judge to decide matters promptly after submission. MCR 8.107(B) requires a judge to submit quarterly reports that include information on all matters pending during the reporting period that were not decided within 56 days of submission.

The amendments of MCR 8.110(C) require monthly reports to the state court administrator in felony cases where there has been a delay of more than 154 days between the order binding a defendant over to circuit court and adjudication in felony cases, or a delay of more than 91 days between a defendant's first appearance on the warrant and complaint, or citation, and adjudication in misdemeanor cases and local ordinance violations that carry criminal penalties.

The staff comment is not an authoritative construction by the Court.

CAVANAGH, KELLY, and WEAVER, JJ. We oppose the amendment of the reporting deadlines in Rules 8.107 and 8.110 of the Michigan Court Rules.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 25, 2005

*Corbin R. Davis*  
Clerk